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PART I

Acts, Ordinances, President's Orders and Regulations

Act. No.
XVIII

NATIONAL ASSEMBLY SECRETARIAT

An Act further to amend the Law Reforms Ordinance, 1972

WHEREAS it is expedient further to amend the Law Reforms Ordinance, 1972 (XII of 1972), for the purposes hereinafter appearing ;

It is hereby enacted as follows :—

1. Short title, extent and commencement.—(1) This Act may be called the Law Reforms (Amendment) Act, 1976.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. Amendment of Ordinance XII of 1972.—The Law Reforms Ordinance, 1972 (XII of 1972), shall be amended to the extent and in the manner specified in the Schedule.

3. Repeal.—The Law Reforms (Amendment) Ordinance, 1975 (XXIV of 1975), and the Law Reforms (Amendment) Ordinance, 1976 (VIII of 1976), are hereby repealed.

(113)

THE SCHEDULE

(See section 2)

AMENDMENTS IN THE LAW REFORMS ORDINANCE, 1972

(XII OF 1972)

A. In section 1, in sub-section (2), after the word "specified", the words "for different provisions and" shall be inserted.

B. After section 4, the following new section shall be added, namely :—

" 5. *Saving*.—Notwithstanding anything contained in this Ordinance,—

- (a) the trial of a warrant case which was pending before a Magistrate immediately before the twenty-first day of December, 1975, and in which charge had been framed ; or
- (b) any inquiry into a case triable by the Court of Session or High Court in which charge was framed, or in which the accused was committed for trial by the Court of Session or the High Court before the twenty-first day of December, 1975 ; shall be proceeded with and completed as if the provisions of the Schedule to this Ordinance relating to amendments in the Code of Criminal Procedure, 1898 (Act V of 1898), had not come into force :

Provided that any such case decided by a Magistrate, or any case in which the accused was committed for trial by the Court of Session or the High Court and decided by it, on or after the said twenty-first day of December, 1975, but before the commencement of the Law Reforms (Amendment) Ordinance, 1976, by following the procedure provided in the said Code as amended by this Ordinance, shall be deemed to have been validly decided."

C. In the Schedule, in the provisions relating to amendments in the Code of Criminal Procedure, 1898 (Act V of 1898).—

I. after item 2, the following new item shall be inserted, namely :—

" 2A. In section 10, in sub-section (3), for the commas, figures, words and brackets " , 407, sub-section (2) and 528, sub-sections (2) and (3) " the words, figures, comma and brackets " and 407, sub-section (2) " shall be substituted." ;

2. after item 12, the following new item shall be inserted, namely :—

" 12A. In section 30, the words and comma " and the District of Sylhet, " shall be omitted." ;

3. for item 15 the following shall be substituted, namely :—

" 15. In section 32, in sub-section (1),—

- (i) for the words "two years" the words "three years" ; for the words "one thousand" the words "five thousand" ; for the

words "six months" the words "one year"; and for the words "two hundred" the words "one thousand" shall respectively be substituted; and

- (ii) for the word "Magistrate", occurring for the first time, the words "Judicial Magistrate" shall be substituted.";

4. for item 22 the following shall be substituted, namely:—

"22. In section 44,—

- (i) for sub-section (1) the following shall be substituted, namely:—

'(1) Every person aware of the commission of, or of the intention of any other person to commit, any offence punishable under any of the following sections of the Pakistan Penal Code, namely, 121, 121A, 122, 123, 123A, 124, 124A, 125, 126, 130, 143, 144, 145, 147, 148, 153A, 161, 162, 163, 164, 165, 168, 170, 231, 232, 255, 302, 303, 304, 304A, 364A, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 456, 457, 458, 459, 460 and 489A, shall, in the absence of reasonable excuse, the burden of proving which shall lie upon the person so aware, forthwith give information to the nearest Magistrate or police-officer of such commission or intention.'; and

- (ii) in sub-section (1) substituted as aforesaid, after the word "Magistrate", the comma and words ", Justice of the Peace" shall be inserted.";

5. for item 32 the following shall be substituted, namely:—

"32. After section 86, the following new section 86A shall be inserted, namely:—

'86A. *Procedure for removal in custody to Tribal Area.*—Where a person arrested under section 85 is to be removed in custody to any place in the Tribal Areas, he shall be produced before a Magistrate within the local limits of whose jurisdiction the arrest was made, and such Magistrate in directing the removal shall hear the case in the same manner and have the same jurisdiction and powers, as nearly as may be, including the power to order the production of evidence, as if the person arrested were charged with an offence committed within the jurisdiction of such Magistrate; and such Magistrate shall direct the removal of the arrested person in custody if he is satisfied that the evidence produced before him raises a strong or probable presumption that the person arrested committed the offence mentioned in the warrant.'

32A. In section 86A, for the word 'Magistrate', occurring for the first time, the words 'Judicial Magistrate' shall be substituted.";

6. for item 36 the following shall be substituted, namely:—

"36. In section 98,—

- (i) in sub-section (1),—

(a) for the words and comma "or coin, or instruments or materials for counterfeiting coin or stamps" the commas

- and words “, bank notes, currency notes or coin or instruments or materials for counterfeiting coin, stamps, bank notes or currency notes” shall be substituted ;
- (b) the commas and words “, if a District Magistrate, or a Sub-divisional Magistrate, upon information and after such inquiry as he thinks necessary, has reason to believe that any place is used” shall be omitted ;
- (c) in clause (c), after the words “ stamps ”, the commas and words “, bank notes, currency notes ” shall be inserted ;
- (d) in clause (d), after the word and comma “ stamps, ”, the words and commas “ bank notes, currency notes, ” shall be inserted ; and
- (e) in clause (e), after the word and comma “ stamps, ”, the words “, stamps, bank notes or currency notes ” shall be inserted and for the words “ or stamps ” the commas and words “, stamps, bank notes or currency notes ” shall be substituted ; and
- (ii) in sub-section (2), for the words, figures and comma “ section 19 of the Sea Customs Act, 1878 ” the words, figures and comma “ section 16 of the Customs Act, 1969 ” shall be substituted. ” ;
7. in item 37, the words, commas and figure “ Press and Publications Ordinance, 1960, or the ” shall be omitted ;
8. in item 43, in sub-item (ii), the words, commas and figure “ the Press and Publications Ordinance, 1960, ” shall be omitted ;
9. after item 58 the following new item shall be inserted, namely :—
- “ 58A. In section 146, in sub-section (2), for the words “ Code of Civil Procedure ” the words, comma and figure “ Code of Civil Procedure, 1908 ” shall be substituted. ” ;
10. in item 70, for sub-item (ii) the following shall be substituted, namely :—
- “ (ii) in sub-section (2), for the words and comma “ or the District Magistrate subject to the general or special orders of the Provincial Government, may ” the words and commas “ may, on the recommendation of the High Court, empower any Judicial Magistrate ” shall be substituted ;
- (iiA) in sub-section (2), for the words “ commit for trial ” the words “ send to the Court of Session for trial ” shall be substituted ; and
- (iii) for sub-section (3) the following shall be substituted, namely :—
- “ (3) A Magistrate taking cognizance under sub-section (1) of an offence triable exclusively by a Court of Session shall, without recording any evidence, send the case to the Court of Session for trial. ” ;

11. after item 70 amended as aforesaid, the following new item shall be inserted, namely :—

“70A. In section 191, for the word “committed” the word “sent” shall be substituted.”;

12. after item 71, the following new item shall be inserted, namely :—

“71A. In section 192, in sub-section (2), for the words “commit him” the words “send him to the Court of Session” shall be substituted.”;

13. for item 78 the following shall be substituted, namely :—

“78. In section 200, in clause (a) of the proviso, after the word and figure ‘section 192’, the comma and words ‘, or sending it to the Court of Session’ shall be added.”;

14. for item 79 the following shall be substituted, namely :—

“79. For section 202 the following shall be substituted, namely :—

‘202. *Postponement of issue of process.*—(1) Any Court, on receipt of a complaint of an offence of which it is authorised to take cognizance, or which has been sent to it under section 190, sub-section (3), or transferred to it under section 191 or section 192, may, if it thinks fit, for reasons to be recorded, postpone the issue of process for compelling the attendance of the person complained against, and either inquire into the case itself or direct an inquiry or investigation to be made by a police-officer, or by such other person as it thinks fit, for the purpose of ascertaining the truth or falsehood of the complaint :

Provided that, save where the complaint has been made by a Court, no such direction shall be made unless the complainant has been examined on oath under the provisions of section 200.

(2) A Court of Session may, instead of directing an investigation under the provisions of sub-section (1), direct the investigation to be made by any Magistrate subordinate to it for the purpose of ascertaining the truth or falsehood of the complaint.

(3) If any inquiry or investigation under this section is made by a person not being a Magistrate, or a police-officer, such person shall exercise all the powers conferred by this Code on an officer-in-charge of a police-station, except that he shall not have power to arrest without warrant.

(4) Any Court inquiring into a case under this section may, if it thinks fit, take evidence of witnesses on oath.’

79A. In section 202 substituted as aforesaid,—

- (i) in sub-section (1), after the words ‘made by’, the words and comma ‘any Justice of the Peace, or by’ shall be inserted; and
- (ii) in sub-section (3), after the word and comma “Magistrate.”, the words “or Justice of the Peace” shall be inserted.

- 79B. In section 203,—
- (i) for the word “Magistrate” the word “Court” shall be substituted; and
 - (ii) after the word “transferred”, the words “or sent” shall be inserted.”;
15. after item 85, the following new items shall be inserted, namely:—
- “85A. In section 228, the words and figure “section 226 or” shall be omitted.
- 85B. In section 232, in sub-section (1), after the words “High Court”, the comma and words “, or the Court of Session” shall be inserted.”;
16. after item 95, the following new item shall be inserted, namely:—
- “95A. In section 247, in the proviso, for the full stop at the end a colon shall be substituted and thereafter the following further proviso shall be added, namely:—
- ‘Provided further that nothing in this section shall apply where the offence of which the accused is charged is either cognizable or non-compoundable.’”;
17. in item 100, in sub-item (ii), for the words “two hundred and fifty rupees” the words “two thousand and five hundred rupees” shall be substituted;
18. for item 103 the following shall be substituted, namely:—
- “103. For section 264 the following shall be substituted, namely:—
- ‘264. *Record in appealable cases.*—In every case tried summarily by a Magistrate or Bench in which an appeal lies, such Magistrate or Bench shall record the substance of the evidence and also the particulars mentioned in section 263 and shall, before passing any sentence, record a judgment in the case.’”;
19. in item 112, sub-item (i) shall be omitted;
20. after item 139, the following new item shall be inserted, namely:—
- “139A. In section 407, in sub-section (1), the words and figure ‘or in respect of whom an order has been made, or a sentence has been passed under section 380 by a Sub-divisional Magistrate of the second class’ shall be omitted.”;
21. after item 150, the following new item shall be inserted, namely:—
- “150A. In section 436, the comma, words and colon “, or into the case of any person accused of an offence who has been discharged:” and the proviso shall be omitted.”;
22. for item 152 the following shall be substituted, namely:—
- “152. Section 437 shall be omitted.

152A. In section 438, the words "Sessions Judge or" shall be omitted.

152B. Section 438, amended as aforesaid, shall be omitted." ;

23. in item 157, for the words "five hundred rupees" the words "one thousand rupees" shall be substituted ;

24. after item 165, the following new item shall be inserted, namely :—

" 165A. In section 508, the words ' other than Pakistan ' shall be omitted. " ;

25. in item 167, for the words and commas " and shall, if so requested by any party to such inquiry, trial or proceeding " the words " if it considers necessary in the interest of justice " shall be substituted ;

26. in item 172,—

(i) in sub-item (i), for the brackets and letter '(c)' the brackets and letter '(e)' shall be substituted ; and

(ii) for sub-item (iv) the following shall be substituted, namely :—

" (iv) for sub-sections (8) and (9) the following shall be substituted, namely :—

' (8) In an inquiry under Chapter VIII or any trial, the fact that any party intimates to the Court at any stage that he intends to make an application under this section shall not require the Court to adjourn the case ; but the Court shall not pronounce its final judgment or order until the application has been finally disposed of by the High Court and, if the application is accepted by the High Court, the proceedings taken by the Court subsequent to the intimation made to it shall, at the option of the accused, be held afresh. ' ; "

27. for item 173 the following shall be substituted, namely :—

" 173. In section 528,—

(i) after sub-section (1B), the following new sub-section (1C) shall be inserted, namely :—

' (1C) Any Sessions Judge may withdraw any case from, or recall any case which he has made over to, any Magistrate subordinate to him, and may refer it for inquiry or trial to any other such Magistrate competent to inquire into or try the same.

Explanation.—All Magistrates shall be deemed to be subordinate to the Sessions Judge for the purposes of this sub-section. ' ;

(ii) sub-sections (2) and (3) shall be omitted ; and

(iii) in sub-section (5), for the word " section ", the words " preceding sub-section " shall be substituted. " ;

28. for item 185 the following shall be substituted, namely :—

" 185. In section 565, in sub-section (1),—

(i) the commas and words ' District Magistrate, Sub-divisional Magistrate ' shall be omitted ; and

(ii) the words 'transportation or' shall be omitted."

29. after item 197, the following new item shall be inserted, namely:—

"197A. In section 146, in the margin, for the figures and word 'XIV of 1882' the figures and word 'V of 1908' shall be substituted.";

30. after item 201, the following new item shall be inserted, namely:—

"201A. In section 350, in the margin, the words 'or commitment' shall be omitted.";

31. in item 211, for sub-item (v) the following shall be substituted, namely:—

"(v) in Part V, under the heading 'Ordinary Powers of a District Magistrate',—

(a) items (1a), (9), (9a), (10), (11) and (14) shall be omitted;

(b) items (7), (8) and (13) shall be omitted;

(c) in item (12), the words 'or case of accused discharged' shall be omitted; and

(d) item (12), amended as aforesaid, shall be omitted."; and

32. in item 210, sub-item (v) shall be omitted.
